

**CV 09**

**286**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

**ORIGINAL**

DAMION BECKFORD,

**SIFTON**  
Plaintiff,

**COMPLAINT**

-against-

THE CITY OF NEW YORK, POLICE OFFICER MARK  
PFEIFFER, POLICE OFFICER MARGARET  
MERENDINO,

**J. ORENSTEIN, M.J.**

Jury Trial Demanded

Defendants.

**FILED**  
IN CLERK'S OFFICE  
DISTRICT COURT E.D.N.Y.

★ JAN 23 2009 ★

**PRELIMINARY STATEMENT**

1. This is an action brought pursuant to 42 U.S.C. § 1983 alleging civil rights

violations by the City of New York and two individuals employed by the New York City Police Department ("NYPD"). Plaintiff alleges that, on September 9, 2007, two NYPD officers of the 77<sup>th</sup> Precinct subjected him to false arrest, retaliation, excessive force, false evidence, and malicious prosecution in violation of the First, Fourth, Sixth and Fourteenth Amendments to the United States Constitution. Plaintiff seeks compensatory and punitive damages, declaratory relief, an award of attorney's fees and costs, and such other and further relief as the court deems just and proper.

**JURISDICTION & VENUE**

2. This action is brought pursuant to 42 U.S.C. § 1983 and the First, Fourth, Sixth and Fourteenth Amendments to the United States Constitution. Jurisdiction is conferred upon this Court by 28 U.S.C. §§ 1331 and 1343.

3. Venue is proper in the Eastern District of New York pursuant to 28 U.S.C. § 1391(b) and (c).

**PARTIES**

4. Plaintiff is a resident of the State of New York, County of Kings.

5. The City of New York is a municipal corporation organized under the laws of the State of New York.

6. Police Officers Mark Pfeiffer and Margaret Merendino are members of the NYPD who were involved in the arrest of plaintiff and the events arising out of plaintiff's arrest. These officers were acting under color of state law and in their capacities as NYPD officers at all relevant times herein. The officers are liable for directly participating in the unlawful acts described herein and for failing to intervene to protect plaintiff from unconstitutional conduct. The officers are sued in their individual capacities.

**STATEMENT OF FACTS**

7. On September 9, 2007, at approximately 2:45 p.m., plaintiff was riding his bicycle to his home located at 489 Prospect Place in the Crown Heights section of Brooklyn.

8. At all relevant times, plaintiff was obeying the law.

9. While plaintiff was cycling on Bergen Street, between Washington and Grand Avenues, a police car operated by Police Officers Mark Pfeiffer and Margaret Merendino of the 77<sup>th</sup> Precinct almost struck plaintiff.

10. Plaintiff told the officers to "watch how you are driving."

11. In response to plaintiff's exercise of free speech, the officers stopped and seized plaintiff.

12. Officer Pfeiffer ordered plaintiff to produce identification.

13. Plaintiff complied.

14. Plaintiff questioned the reason why the officers had stopped and seized him.

15. In response, Officer Pfeiffer used excessive force on plaintiff.

16. Officer Pfeiffer punched plaintiff in the face and head several times, held plaintiff up by his collar causing plaintiff to choke, stomped on plaintiff's back, and pushed his foot into plaintiff's back.

17. Officer Pfeiffer then handcuffed plaintiff excessively tight to punish plaintiff for exercising his right to free speech.

18. After plaintiff was handcuffed, Officers Pfeiffer and Merendino took plaintiff to the 77<sup>th</sup> Precinct.

19. After arriving at the 77<sup>th</sup> Precinct, plaintiff was placed in a cell.

20. Plaintiff requested medical attention and an ambulance came to the precinct and took plaintiff to Brookdale Hospital.

21. While plaintiff was at the hospital, Officers Pfeiffer and Merendino, in furtherance of a conspiracy to have plaintiff prosecuted on false charges, prepared police reports which falsely stated that plaintiff had assaulted Pfeiffer and resisted arrest.

22. After he was treated at Brookdale Hospital, unidentified officers who had escorted plaintiff to the hospital returned plaintiff to the 77<sup>th</sup> Precinct.

23. Some time later, unidentified officers took plaintiff to Brooklyn Central Booking.

24. Plaintiff was incarcerated under unconstitutional conditions at Brooklyn Central Booking. The cells were severely overcrowded, filled with garbage and human excrement and devoid of adequate toilet facilities.

25. While plaintiff was confined in Brooklyn Central Booking, Officers Pfeiffer and Merendino, in furtherance of a conspiracy to have plaintiff prosecuted on false charges, misrepresented to a prosecutor of the Kings County District Attorney's Office that plaintiff had assaulted Pfeiffer and resisted arrest.

26. As a direct result of the officers' misrepresentations, the District Attorney's Office charged plaintiff with assault in the second degree, assault in the third degree and resisting arrest.

27. On September 11, 2007, at approximately 1:00 a.m., plaintiff was arraigned in Criminal Court, Kings County.

28. The presiding judge released plaintiff on his own recognizance and directed him to return to court on a later date.

29. After being released from jail, plaintiff went to Brooklyn Hospital for medical treatment.

30. Further, plaintiff hired the law firm of Epstein and Conroy to defend him in court.

31. Plaintiff paid the lawyers approximately \$1,500 up front and between \$100 and \$250 at each court appearance.

32. Plaintiff appeared in court numerous times after his arraignment.

33. On January 22, 2009, the false criminal charges filed against plaintiff were dismissed on the ground that plaintiff was denied a speedy trial.

34. Plaintiff suffered damage as a result of defendants' actions. Plaintiff suffered a loss of liberty, physical injuries, bruising, pain, emotional distress, mental anguish, fear, anxiety and damage to reputation. Plaintiff also suffered financial damages. Plaintiff had

his security guard license revoked, incurred medical bills and paid a few thousand dollars for a criminal defense attorney.

**PLAINTIFF'S FEDERAL CLAIMS AGAINST  
POLICE OFFICERS MARK PFEIFFER AND  
MARGARET MERENDINO**

35. Plaintiff repeats and realleges the foregoing allegations.

36. The conduct of Police Officers Mark Pfeiffer and Margaret Merendino, as described herein, amounted to false arrest, retaliation, excessive force, fabrication of evidence, and malicious prosecution in violation of 42 U.S.C. § 1983 and the First, Fourth, Sixth and Fourteenth Amendments to the United States Constitution.

**PLAINTIFF'S FEDERAL CLAIM AGAINST  
THE CITY OF NEW YORK**

37. Plaintiff repeats and realleges the foregoing allegations.

38. The City of New York directly caused the constitutional violations suffered by plaintiff.

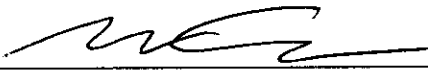
39. Upon information and belief, the City of New York, at all relevant times, was aware from notices of claim, lawsuits, complaints filed with the City, and from the City's own observations that Police Officers Mark Pfeiffer and Margaret Merendino are unfit officers who frequently commit the acts alleged herein. Nevertheless, the City of New York exercised deliberate indifference by failing to take remedial action. The City failed to properly train, retrain, supervise, discipline, and monitor the officers and improperly retained and utilized them. Moreover, upon information and belief, the City of New York failed to adequately investigate prior complaints filed against the officers.

40. The aforesaid conduct by the City of New York violated plaintiff's rights under 42 U.S.C. § 1983 and the First, Fourth, Sixth and Fourteenth Amendments to the United States Constitution.

WHEREFORE, plaintiff demands a jury trial and the following relief jointly and severally against the defendants:

- a. Compensatory damages in an amount to be determined by a jury;
- b. Punitive damages in an amount to be determined by a jury;
- c. Attorney's fees and costs;
- d. Such other and further relief as this Court may deem just and proper.

DATED: January 23, 2009  
Brooklyn, New York

  
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RICHARD J. CARDINALE  
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26 Court Street, Suite 1815  
Brooklyn, New York 11242  
(718) 624-9391

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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DAMION BECKFORD,

Plaintiff,

-against-

THE CITY OF NEW YORK, POLICE OFFICER MARK  
PFEIFFER, POLICE OFFICER MARGARET  
MERENDINO,

Defendants.

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**COMPLAINT**

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